

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HYUNDAI MOTOR FINANCE COMPANY,)

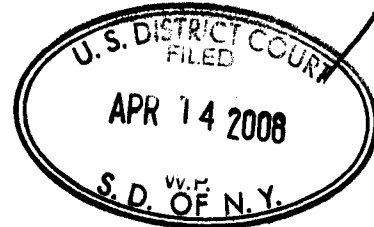
Plaintiff,)

v.)

FALCON MOTORS, INC., SAEID TEHRANI,)
ARIEL TEHRANI, EDMOND GEULA AND)
EXECUTIVE MOTORS, LTD.)

Defendants.)

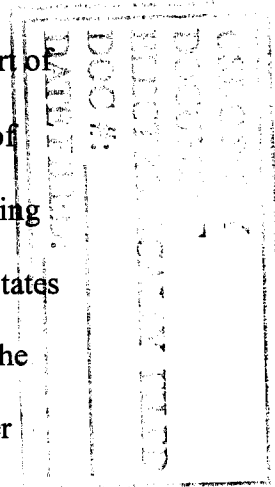
CIVIL ACTION NO.
08-CIV-1262



ORDER OF SEIZURE

Plaintiff, Hyundai Motor Finance Company, by its counsel, Deily, Mooney & Glastetter, LLP, having moved for an Order to Show Cause, Temporary Restraining Order and Order of Seizure pursuant to Rule 64 of the Federal Rules of Civil Procedure and CPLR §7101 *et seq.*, directing the U.S. Marshal or Sheriff of the County of Westchester, State of New York, or any other County within the State of New York where the property may be found, to seize certain property hereinafter defined; and

Upon the Complaint, the Motion for Order to Show Cause, the Supporting Memorandum of Law, the Temporary Restraining Order and Order of Seizure of Property Pursuant to Fed. R. Civ. P. 64 and the Affidavit of Sam Frobe sworn to February 6, 2008, submitted in support of Plaintiff's Motion for an Order to Show Cause, Temporary Restraining Order and Order of Seizure of Property; and, further, upon the Order to Show Cause and Temporary Restraining Order, signed on February 7, 2008, by the Hon. Kenneth M. Karas, Judge of the United States District Court for the District of New York and entered herein on February 7, 2008, and the Bond of Plaintiff, approved by the Court as to amount and filed herein and due and proper service of said Order on Defendants; and upon the filing of an Affidavit of Default pursuant to



RECEIVED
APR 14 2008
U.S. DISTRICT COURT

the terms of the Stipulated Interim Order Regarding Motion for Pre-Judgment Order of Seizure; pursuant to a Stipulation Regarding Motion for Pre-Judgment Order of Seizure; and due deliberation having been had hereon, and good and sufficient cause having been shown,

NOW, upon the request of Plaintiff, and upon the foregoing matters filed of record herein; it is hereby

ORDERED, that pursuant to CPLR §7101 *et seq.*, after notice to the above referenced Defendants, the Court finds that there is a reasonable likelihood that the Plaintiff will prevail in the Replevin action, that the Bond required by law has been given by Plaintiff, that the amount of the Bond, \$2,634,404.00 is based upon a reasonable valuation of the property of which Replevin is sought, the Bond required by law has been given by the Plaintiff based upon a Collateral valuation in the amount of \$1,317,202.00, that the amount of the valuation is within the jurisdiction of the Court and further, that there is an immediate danger that the Defendants will damage, destroy or sell the property to be replevied, it is ordered that this Order of Seizure and Bond in the amount of \$2,634,404.00 herein are approved and that the goods and chattels in the possession of the Defendants described in Plaintiff's Complaint may be replevied; and it is hereby

ORDERED, that the U.S. Marshal or Sheriff of the County of Westchester, State of New York, or of any other County within the State of New York where the property may be found, shall seize from the Defendants the following described property and place same with an appropriate storage facility. **All property subject to Plaintiff's priority security interest and described in Schedule "A" annexed hereto and made a part hereof (hereinafter the "Property")**; and it is further

ORDERED, that if any of the above-described Property is not delivered to the U.S.

Marshall or Sheriff, the U.S. Marshal or Sheriff may break open, enter and search for said property at Falcon Motors, Inc., 15 Kensico Drive, Mount Kisco, New York 10549 and Executive Motors, Ltd., 774 North Bedford, Mt. Kisco, New York 10549 or any other location where the Property may be found, and, if found therein, seize same as herein ordered; and it is further

ORDERED, that the U.S. Marshal or Sheriff may seize such Property which is located at Falcon Motors, Inc., 15 Kensico Drive, Mount Kisco, New York 10549 and Executive Motors, Ltd., 774 North Bedford, Mt. Kisco, New York 10549 or any other location where the Property may be found by entering said premises, serving a copy of this Order of Seizure on any person apparently in charge of the premises and posting a copy of this Order of Seizure on the premises and by securing such Property against removal by the Defendants, or anyone acting in concert with them, without removing the property from said premises; and may designate agents or employees of Plaintiff in custody or control of said Property on said premises to retain custody of and to safeguard such Property on said premises, which custody shall be deemed custody of the U.S. Marshal or Sheriff from the date and hour of his entry on the premises but shall be covered by the Bond given herein by Plaintiff; and it is further

ORDERED, that anyone interfering with the execution of this Order is subject to arrest by the Sheriff or United States Marshal and/or his or her representative; and it is further

ORDERED, that Hyundai Motor Finance Company, on whose behalf the Court issues this Order, will account completely for all property seized pursuant to this Order and shall compile a written inventory of all such property and shall provide a copy to the Sheriff or U.S. Marshal, who shall include such a copy with his return to the Court; and it is further

ORDERED, that Hyundai Motor Finance Company, on whose behalf the Court issues


this Order, will act as substitute custodian of any and all property seized pursuant to this Order and shall hold harmless the Sheriff or U.S. Marshals Service and their employees from any and all claims, asserted in any court or tribunal, arising from any acts, incidents, or occurrences in connection with the seizure and possession of the Defendant property, including any third-party claims; and it is further

ORDERED, that the Temporary Restraining Order heretofore issued herein shall remain in effect as to all of the aforesaid property until same is seized by the U.S. Marshal or Sheriff or delivered to Plaintiff, upon the same grounds that the Order to Show Cause and Temporary Restraining Order was based; and it is further

ORDERED, that the Bond filed herein by Hyundai Motor Finance Company is approved as to form and amount to support this Order of Seizure, as well as the Temporary Restraining Order herein decreed.

IT IS SO ORDERED.

Dated: April 14, 2008



Hon. Kenneth M. Karas
United States Magistrate Judge

SCHEDULE A

1. All inventory, including but not limited to all new and used motor vehicles, campers, travel trailers, mobile homes and motor homes and all automotive parts and accessories, whether now owned or hereafter acquired, together with all additions and accessions thereto; and
2. All Chattel Paper, Accounts whether or not earned by performance, Contract Rights, Deposit Accounts, Documents, Instruments, General Intangibles, Investment Property, Consumer Goods, Equipment, Fixtures and Leasehold Improvements, whether now owned or hereafter acquired, together with all additions and accessions thereto; and
3. All Proceeds of the property covered by this statement, including but not limited to Insurance Proceeds on the property, Money, Chattel Paper, Goods including without limitation motor vehicles received in trade, Contract Rights, Accounts whether or not earned by performance, Deposit Accounts, Documents, Instruments, General Intangibles, Claims and Tort Recoveries relating to the property.